

Attorney Docket No.: J7175(C)
Serial No.: 10/551,823
Filed: July 10, 2006
Confirmation No.: 3927

REMARKS

The present amendment is submitted in an earnest effort to advance the case to issue without delay.

New claim 14 replaces claim 1. This revision is intended to place the independent claim more firmly within American standard claim language. Independent claim 13 also has been amended to reflect the American practice.

Pursuant to the Examiner's suggestion, applicant has amended the first line of the specification following the title to refer to the claim for priority from PCT/EP04/02849.

Claims 1-12 were rejected under 35 U.S.C. § 112, second paragraph. The term "substantially" was objected to as being indefinite. The term substantially has been deleted.

Claim 3 was objected because of the recitation of "100%". This claim has been canceled.

Claims 1-3, 6-10 and 12 were rejected under 35 U.S.C. § 102(b) as anticipated by Yamane et al. (US Patent 6,149,894). Applicant traverses this rejection.

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Yamane in their Example directly subsequent to placement of a calcium carbonate slurry into a vessel (Stage 3) introduces the thickener suspension (Stage 4) into the mixer holding the calcium carbonate slurry. In subsequent stages, the fluoride, sodium silicate, flavor and then surfactant (SLS) are added. See Stages 5-8. By contrast, applicant mixes surfactant (e.g. SLS) and fluoride into the calcium carbonate slurry prior to the addition of the thickener mixture. For these reasons, Yamane would not anticipate the claims.

Claims 1-3, 6-8, 10, 12 and 13 were rejected under 35 U.S.C. § 102(b) as anticipated by Sanders (US Patent 2,751,328). Applicant traverses this rejection.

The Examiner has particularly focused upon the working Example 2. Unlike the claimed process, the working Example as well as the specification does not mention a fluoride constituent. Neither does the process include mention of adding thickening mixture under vacuum. For these reasons, the reference would not anticipate the claims.

Claims 4, 5, 11 and 13 were rejected under 35 U.S.C. § 103(a) as unpatentable over Yamane et al. (US Patent 6,149,894) in view of Sanders (US Patent 2,751,328). Applicant traverses this rejection.

A combination of claims 1 and 4 require that a surfactant be present in some amount both within the calcium carbonate slurry and also within the thickening mixture. By contrast, Yamane as exemplified by the working Example places the surfactant SLS into the composition as a very last addition (Stage 8). There is no separate placement

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of surfactant in each of the slurry and the thickener mixture. In fact, neither of the two primary dispersions (slurry and thickener) seem to be formulated with surfactant. Only at the very end is a surfactant added.

Sanders was cited for teaching that the order of mixing in toothpaste manufacture is not critical, so long as a thickener is added subsequent to the slurry. Attention was drawn to column 3, lines 28 et seq.

Applicant notes that Sanders does not disclose any fluoride ingredient. Consequently, any statement regarding fluoride addition in a process is beyond the statements in Sanders. Indeed, Yamane in the working Example adds the fluoride as monofluorophosphate (Stage 5) subsequent to both the calcium carbonate slurry and the thickener mixture introduction into a common mixer vessel. Further, these references do not disclose addition of the thickening mixture under a vacuum to the calcium carbonate slurry. For these reasons a combination of Yamane in view of Sanders would not render the instant invention obvious.

Claim 4 was rejected under 35 U.S.C. § 103(a) as unpatentable over Sanders (US Patent 2,751,328). Applicant traverses this rejection.

Sanders in Example 2 places the "synthetic foaming agent" within the calcium carbonate (chalk) dispersion. There is no separate surfactant placed into the sodium carrageenane binder (thickener) mixture. Although Sanders argues non-criticality with respect to method and sequence of combining ingredients, this disclaimer appears not to cover a situation where an ingredient actually is split between different streams of the

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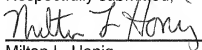
process. Based on these considerations, claim 4 would not be obvious over the reference.

Claims 5, 9 and 11 were rejected under 35 U.S.C. § 103(a) as unpatentable over Sanders (US Patent 2,751,328) in view of Yamane et al. (US Patent 6,149,894). Applicant traverses this rejection.

Sanders does not at all mention fluoride. Absent the mention of fluoride, Sanders' general statement about non-criticality of method and sequence has no authority with respect to that ingredient. The reliance on Yamane for the teaching of fluoride is problematical. In the secondary reference, the working Example places fluoride as an addition subsequent to the charging into a mixer vessel of both the calcium carbonate slurry and the thickener mixture. It is not seen how the Sanders 1956 disclosure would alter a skilled chemists' view of the Yamane 2000 disclosure regarding fluoride. Thus, claims 5, 9 and 11 would not at all be obvious in view of these references.

In view of the foregoing amendment and comments, applicant requests the Examiner to reconsider the rejection and now allow the claims.

Respectfully submitted,



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